

September 18, 2008

MINUTES  
ILLINOIS CIVIL SERVICE COMMISSION  
September 18, 2008

I. OPENING OF MEETING AT 9:04 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; Jan Oncken, Central Management Services; DiAna Greene and Shannon Lightner, Department of Public Health; and Nick Beard, Office of the Attorney General.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD AUGUST 21, 2008

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION ADOPTED 5-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 21, 2008.**

IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging .....	166.....	9
Agriculture .....	590.....	16
Arts Council.....	20.....	2
Capitol Development Board .....	36.....	0
Central Management Services .....	1,474.....	106
Children and Family Services .....	3,193.....	49
Civil Service Commission .....	4.....	0
Commerce & Economic Opportunity .....	419.....	67
Commerce Commission.....	69.....	0
Corrections.....	11,531.....	115
Criminal Justice Authority .....	56.....	6
Deaf and Hard of Hearing Comm. ....	6.....	1
Developmental Disabilities Council .....	9.....	1
Emergency Management Agency .....	101.....	3
Employment Security.....	1,701.....	25
Environmental Protection Agency .....	1,003.....	19
Financial & Professional Regulation .....	746.....	50
Guardianship and Advocacy .....	108.....	8
Healthcare and Family Services.....	2,494.....	29
Historic Preservation Agency .....	250.....	12
Human Rights Commission .....	13.....	2
Human Rights Department .....	152.....	10
Human Services .....	14,630.....	75
Investment Board.....	4.....	2
Juvenile Justice .....	1,173.....	19
Labor.....	81.....	7
Labor Relations Board Educational .....	13.....	2
Labor Relations Board State .....	20.....	2
Law Enforcement Training & Standards Bd.....	20.....	1
Medical District Commission .....	2.....	0
Military Affairs .....	127.....	3
Natural Resources .....	1,625.....	23
Pollution Control Board.....	19.....	2
Prisoner Review Board .....	20.....	0
Property Tax Appeal Board .....	26.....	1
Public Health.....	1,129.....	41
Revenue .....	2,102.....	71
State Fire Marshal .....	153.....	12
State Police .....	1,441.....	6
State Police Merit Board.....	5.....	1
State Retirement Systems .....	87.....	2
Transportation.....	2,485.....	0
Veterans' Affairs.....	1,111.....	7
Workers' Compensation Commission .....	177.....	10
TOTALS .....	50,591.....	817

**B. Governing Rule - Jurisdiction B Exemptions**

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
  - 1. The Governor, or
  - 2. A departmental director or assistant director appointed by the Governor, or
  - 3. A board or commission appointed by the Governor, or
  - 4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
  - 5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
  - 6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
  - 7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.
  
- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
  - 1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
  - 2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board, or commission.
  - 3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

\* \* \*

**C. Requests for 4d(3) Exemption**

- With regard to Item C, Executive Director Stralka reported that this request is for the Deputy Director of the Office of Men's Health for the Illinois Department of Public Health, a position that reports to the Director. This position has principal policy responsibilities for directing the Office of Men's Health which is an agency program defined by statute. In addition, there presently exists a 4d(3) exempt position directing the Office of Women's Health in the agency which has similar responsibilities. For these reasons, staff recommended approval of this request.
- As to Item D, Executive Director Stralka reported that this request is for the Community Outreach Administrator in the Illinois Department of Public Health, a position that reports to the Deputy Director of the Office of Women's Health who in turn reports to the agency Director. To meet the reporting requirement, the Deputy Director of the Office of Women's Health would have to be considered the equivalent of a statutory assistant director.

It was initially noted that this position is a Public Service Administrator, Option 6 and these titles are in the process of being organized into a bargaining unit. Just like last month, the agency has indicated that it will be requesting that this position be excluded from the bargaining unit, but no determination on that will be made in the near future. The agency was advised that should the Commission otherwise approve this request, it would most likely limit it to a 12 month period to allow the unionization issues to clear themselves up.

This position is responsible for developing and implementing outreach priorities for the Women's Health programs. Though the position description references "Women's Health Programs," its sole responsibility is the Illinois Breast and Cervical Cancer Program. Apparently, the establishment of an outreach program manager was a recommendation by the Center for Disease Control after conducting a program audit and this position resulted. It does not have any program development or implementation responsibilities, but does "develop internal policy recommendations" for targeting underserved women. These policy decisions are left to the Deputy Director. Simply speaking, this position's primary responsibilities will be to market and publicize the Illinois Breast and Cervical Cancer Program to uninsured women throughout the State of Illinois.

The agency is requesting principal policy exemption for an outreach position for a single program. Last month, the Commission approved a Community Outreach Officer, but that position had agency-wide responsibilities. In this case, the agency itself has cited at least ten other programs that fall under Women's Health. In addition, there are numerous other individual programs this agency is responsible for. By approving this request, the Commission sets a precedent that each of these ten other programs under Women's Health, the numerous other individual programs under Illinois Department of Public Health, and extrapolating further every individual program in Code agencies will be entitled to a principal policy exempt outreach position. The agency has already indicated that such a

position is “anticipated” for Men’s Health for which it requested a 4d(3) exempt Deputy Director as Item C today. It is Staff’s position that considering the narrow focus of this position and the lack of principal policy development or implementation, this position does not qualify for 4d(3) exemption and therefore recommends denial of this request.

It has also been conveyed to the agency that the Staff’s recommendation to deny this request and any Commission decision to deny this request does not in any way indicate that this position or any other requested position which is not approved is not important or necessary or beneficial to the well-being of the State of Illinois. It simply means it does not qualify for principal policy exemption as set forth in the Personnel Code. The agency is free to fill this position using the State's established hiring methods.

DiAna Greene and Shannon Lightner from the Illinois Department of Public Health responded that this is a new initiative from the Governor to promote the Illinois Breast and Cervical Cancer Program. It is estimated that 9000 women will be diagnosed with either breast or cervical cancer this year, and when diagnosed early, the five-year survival rate is 98%. This is a \$16,000,000 program which takes up 30% of the Deputy Director’s duties, and the federal government has provided funds for outreach. In response to a number of questions from the Commissioners, DiAna Greene and Shannon Lightner argued that a principal policy exemption for this position was warranted due to the need for autonomy, the limitations that are placed on the agency to appoint a qualified individual, and the variety of task forces and stakeholders that this individual will have to interact with. However, at a suggestion from the Chairman, the agency agreed to continue this request to allow it to review the position’s responsibilities and possibly restructure its role in administering the Illinois Breast and Cervical Cancer Program to better illustrate why it should qualify for principal policy exemption.

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO GRANT AND CONTINUE THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:**

**The following 4d(3) exemption request was granted on September 18, 2008:**

**C. Illinois Department of Public Health**

Position Number	40070-20-04-000-00-81
Position Title	Senior Public Service Administrator
Bureau/Division	Office of Men’s Health
Functional Title	Deputy Director
Incumbent	None
Supervisor	Director
Location	Cook County

**The following 4d(3) exemption request was continued on September 18, 2008:**

**D. Illinois Department of Public Health**

Position Number	37015-20-60-200-00-81
Position Title	Public Service Administrator
Bureau/Division	Office of Women's Health
Functional Title	Community Outreach Administrator
Incumbent	None
Supervisor	Deputy Director, Women's Health, who reports to the Director
Location	Cook County

V. CLASS SPECIFICATIONS

**The following class titles were submitted for abolishment, creation, and revision by the Director of Central Management Services:**

Position Titles:

- A. Public Aid Family Support Specialist 1 (abolish)
- Public Aid Family Support Specialist 2 (abolish)

- Child Support Specialist Trainee (new)
- Child Support Specialist I (new)
- Child Support Specialist II (new)

- Accountant (revise)
- Accountant Advanced (revise)
- Human Services Caseworker (revise)
- Public Aid Lead Casework Specialist (revise)

Analysis: Assistant Executive Director Barris reported that the Healthcare and Family Services (HFS) Division of Child Support Enforcement asked Central Management Services (CMS) to investigate the possibility of creating new classes for use in the Division. Basically, Accountant, Accountant Advanced, Human Services Caseworker, Public Aid Lead Casework Specialist, and Public Aid Family Support Specialist 1 positions in the Division would be cross-trained in order to provide comprehensive service to clients – especially in field offices. HFS proceeded to perform the cross-training for the incumbents and CMS recommended establishment of the new classes of Child Support Specialist Trainee, Child Support Specialist I, and Child Support Specialist II. In addition, the vacant class of Public Aid Family Support Specialist 2 was recommended for abolishment as it was last used on March 1, 2000, and there are no plans to use the class again.

Position Title:

B. Fingerprint Technician Supervisor (new)

Analysis: Assistant Executive Director Barris reported that the Illinois State Police requested that Central Management Services conduct a study to determine if a new class, the Fingerprint Technician Supervisor, should be created to encompass positions serving as working supervisors for the Fingerprint Technicians in the Bureau of Identification. A working supervisor assigns and reviews work; provides guidance and training to assigned staff; counsels staff regarding work performance; reassigns staff to meet day-to-day operating needs; establishes annual goals and objectives; approves time off; prepares and signs performance evaluations, but does neither effectively recommend and impose disciplinary action nor adjust first level grievances. The Fingerprint Technician Supervisor must also be an experienced fingerprint technician since they will also have to provide technical assistance with difficult, non-routine fingerprint classifications.

Previously, experienced Fingerprint Technicians (RC-029) were temporarily assigned to Office Administrator IV positions to function as supervisors. However, the Office Administrator IV class is now included in the RC-028 bargaining unit and positions are not assigned to serve as working supervisors of RC-029 positions. Therefore, CMS created the Fingerprint Technician Supervisor class for full time positions serving as working supervisors of Fingerprint Technicians.

**CHAIRMAN KOLKER MOVED TO APPROVE THE ABOLISHMENT, CREATION, AND REVISION OF THE FOLLOWING CLASS TITLES TO BE EFFECTIVE OCTOBER 1, 2008. THIS MOTION FAILED FOR LACK OF A SECOND.**

Commissioner Dalianis asked why jobs were not eliminated, as opposed to the classes being revised, if the employees did not have enough work to do in their positions. Commissioner Peterson asked about the education requirements of the classes at issue. John Logsdon, Agency Classifications, Department of Central Management Services, was teleconferenced for the meeting and he explained that the agency decided that the most efficient way to address the issue was by cross training the employees to take on more responsibilities and to revise the class, as opposed to eliminating any positions. Logsdon explained that the effect of the class revision was to provide training on top of whatever education the employees were previously required to have to obtain their positions. John Logsdon characterized this as a “win-win” for the agency and the employees.

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO APPROVE THE ABOLISHMENT, CREATION, AND REVISION OF THE FOLLOWING CLASS TITLES TO BE EFFECTIVE OCTOBER 1, 2008:**

- A: Public Aid Family Support Specialist 1 (abolish)**
- Public Aid Family Support Specialist 2 (abolish)**

**Child Support Specialist Trainee** (new)

**Child Support Specialist I** (new)

**Child Support Specialist II** (new)

**Accountant** (revise)

**Accountant Advanced** (revise)

**Human Services Caseworker** (revise)

**Public Aid Lead Casework Specialist** (revise)

**B: Fingerprint Technician Supervisor** (new)

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

VI. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE THE MOTION ADOPTED 5-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 9:50 a.m.

PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; and Andrew Barris, Assistant Executive Director.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code, however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	7/31/08	<b>8/31/08</b>	8/31/07
Agriculture	2	<b>3</b>	8
Arts Council	1	<b>1</b>	0
Central Management Services	4	<b>3</b>	9
Children and Family Services	12	<b>7</b>	7
Criminal Justice Authority	0	<b>1</b>	0
Employment Security	7	<b>7</b>	0
Healthcare and Family Services	9	<b>13</b>	15
Historic Preservation	9	<b>0</b>	22
Human Services	4	<b>3</b>	4
Investment Board	0	<b>1</b>	0
Natural Resources	26	<b>25</b>	29
Property Tax Appeal Board	1	<b>1</b>	0
State Police	1	<b>0</b>	0
State Retirement Systems	1	<b>1</b>	0
Transportation	5	<b>15</b>	67
Veteran's Affairs	2	<b>0</b>	0
Workers' Compensation Commission	3	<b>4</b>	1
Totals	87	<b>85</b>	162

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

- ON REMAND

DA-38-01

Employee	Elizabeth Terrell	Appeal Date	2/13/01
Agency	DHS	Decision Date	8/08/02
Type	Discharge	ALJ	Leonard Sacks and Andrew Barris
Charge(s)	Abuse of service recipient	Recommended Decision	Additional findings of fact and conclusions of law in support of its decision and in accordance with memorandum and order.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 3-0 THE MOTION ADOPTED TO MAKE THESE ADDITIONAL FINDINGS OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF ITS DECISION (AND IN ACCORDANCE WITH THE CIRCUIT COURT OF COOK COUNTY'S MEMORANDUM AND ORDER DATED JUNE 4, 2008).

**FINDINGS OF FACT:** THE FOLLOWING PARAGRAPHS OF THE "FACTS" SECTION OF THE ALJ'S RECOMMENDED DECISION DATED AUGUST 8, 2002 WERE RELIED UPON IN SUPPORT OF ITS DECISION: PARAGRAPHS 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 33, 38, 39, 40, 42, 45, 46, 50, 51, AND 52. ATTACHED TO THIS FINDING AND DECISION OF THE COMMISSION IS THE RECOMMENDED DECISION DATED AUGUST 8, 2002 AND THE PHOTOGRAPHS REFERENCED IN THE DECISION AS EXHIBITS 4 - 8. THE TESTIMONY OF TYLER AND HAYSLETT WAS CONSISTENT IN THAT TERRELL WAS IN THE BATHROOM WITH THE RESIDENT AND A COMMOTION TOOK PLACE. DUE TO THE CONSISTENCIES IN THEIR TESTIMONY AND THE CORROBORATIVE PHYSICAL EVIDENCE, THE COMMISSION FOUND THEM TO BE CREDIBLE WITNESSES. THEIR EXPLANATION FOR NOT PROVIDING COMPLETE AND ACCURATE STATEMENTS TO THE AGENCY INVESTIGATOR IS BELIEVABLE ESPECIALLY CONSIDERING THERE IS NO EVIDENCE THEY WERE UNDER OATH WHEN THE ORIGINAL STATEMENTS WERE MADE. THEIR TESTIMONY IN THE CRIMINAL TRIAL WAS GIVEN UNDER OATH.

THE JURY'S VERDICT IN THE CRIMINAL TRIAL WAS DISREGARDED SINCE TERRELL IS NOT CHARGED CRIMINALLY BEFORE THE COMMISSION AND THERE IS A LESSER BURDEN OF PROOF. THEIR TESTIMONY ESTABLISHED THAT ELIZABETH TERRELL WAS ALONE WITH THE RESIDENT IN THE SHOWER AREA WHEN A COMMOTION OCCURRED AND THE RESIDENT SUFFERED INJURIES. NO OTHER

TESTIMONY WAS PROVIDED TO EXPLAIN HOW OR WHEN THE INJURIES TO THE RESIDENT OCCURRED BY EITHER THE AGENCY OR ELIZABETH TERRELL. IT IS UNCONTROVERTED THAT THE DISABLED RESIDENT, WHO IS WITHOUT VERBAL COMMUNICATION SKILLS, SUFFERED INJURIES. THE SIZE OF THE RED MARKS, AS ILLUSTRATED IN EXHIBITS 4-8, WAS CONSISTENT WITH AN IMPRINT FROM A METAL SERVING SPOON. GIVEN THAT TERRELL WAS RESPONSIBLE FOR BATHING THE RESIDENT ON OR ABOUT THE TIME THE INJURIES OCCURRED, THE PREPONDERANCE OF THE EVIDENCE INDICATES THAT TERRELL INJURED THE RESIDENT WITH A SERVING SPOON WHILE THE RESIDENT WAS IN TERRELL'S CARE.

CONCLUSIONS OF LAW: THE EXISTENCE OF THE INJURIES TO THE DISABLED RESIDENT, THE CONSISTENT TESTIMONY OF TYLER AND HAYSLETT REGARDING THE PRESENCE OF TERRELL IN THE BATHROOM WITH THE RESIDENT WHEN A COMMOTION OCCURRED, THE TIME FRAME WITHIN WHICH THE INJURY MUST HAVE NECESSARILY OCCURRED, AND ELIZABETH TERRELL IN CARE OF THE DISABLED RESIDENT AT THE TIME IN QUESTION WERE SUFFICIENT TO ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THAT IT IS MORE PROBABLY TRUE THAN NOT TRUE THAT ELIZABETH TERRELL COMMITTED THE ACTIONS SET FORTH IN THE CHARGES AGAINST HER. ADDITIONALLY, THESE ACTIONS DEMONSTRATE A SIGNIFICANT SHORTCOMING WHICH RENDERS ELIZABETH TERRELL'S CONTINUANCE IN HER POSITION DETRIMENTAL TO THE DISCIPLINE AND EFFICIENCY OF THE SERVICE AND WHICH THE LAW AND SOUND PUBLIC OPINION RECOGNIZE AS GOOD CAUSE FOR HER NO LONGER HOLDING THE POSITION OF MENTAL HEALTH TECHNICIAN III.

KOLKER		EWELL	YES
PETERSON	YES	DALIANIS	
BUKRABA	YES		

- DISCHARGE

DA-9-08

Employee	Thomas W. Bolinger	Appeal Date	9/21/07
Agency	ISP	Decision Date	9/05/08
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Conduct unbecoming, failure to obey state law, and failure to notify supervisor of investigation	Recommended Decision	Charges are partially proven and do warrant discharge.

IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW

**JUDGE’S RECOMMENDED DECISION THAT THE WRITTEN CHARGES HAVE BEEN PARTIALLY PROVEN AND DO WARRANT DISCHARGE FOR THE REASONS SET FORTH IN THE RECOMMENDED DECISION.**

<b>KOLKER</b>	<b>YES</b>	<b>EWELL</b>	<b>YES</b>
<b>PETERSON</b>	<b>YES</b>	<b>DALIANIS</b>	<b>YES</b>
<b>BUKRABA</b>	<b>YES</b>		

- **DISCHARGE**

**DA-48-08**

Employee	John Rogganbuck	Appeal Date	5/23/08
Agency	DHS	Decision Date	9/05/08
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Sleeping on duty; dereliction of duty	Recommended Decision	Charges are partially proven and do warrant discharge.

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 5-0 THE MOTION ADOPTED TO MODIFY THE ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION TO THE EXTENT SET FORTH BELOW THAT THE WRITTEN CHARGES HAVE TECHNICALLY BEEN PARTIALLY PROVEN BUT DO NOT WARRANT DISCHARGE SINCE THE EMPLOYEE’S STATE OF ‘SLEEP’ WHEN OBSERVED BY ROBIN KRESS WAS INVOLUNTARY AS HE WAS HAVING A HYPOGLYCEMIC REACTION AT THE TIME. EVEN THOUGH KRESS TESTIFIED THAT SHE IS FAMILIAR WITH INDIVIDUALS HAVING A HYPOGLYCEMIC REACTION, SHE ALSO TESTIFIED THAT ONE OF THE SYMPTOMS IS SLEEPINESS. SHE ALSO TESTIFIED THAT ANOTHER SYMPTOM WAS COFUSION WHICH INDICATES WHY ROGGANBUCK WAS UNABLE TO INFORM HER OF THIS WHEN HE WAS ROUSED SINCE SHE ABRUPTLY LEFT THE SCENE.**

**IT IS UNDISPUTED THAT THE EMPLOYEE HAD BEEN DIAGNOSED AS A DIABETIC AT THE TIME OF THE INCIDENT, THOUGH HE HAD NOT NOTIFIED THE AGENCY OF THIS WHICH HE WAS OBLIGATED TO DO, BECAUSE IT COULD AFFECT HIS ABILITY TO PERFORM HIS JOB DUTIES AT TIMES. IT IS ALSO UNDISPUTED THAT HE HAD PREVIOUSLY RECEIVED DISCIPLINE FOR SLEEPING ON DUTY AND THAT THE AGENCY AND FACILITY HAVE A POLICY WHICH PROVIDES FOR DISCHARGE AFTER THE SECOND OFFENSE WHICH HAS BEEN CONSISTENTLY ENFORCED OVER THE YEARS. IN ADDITION, THE CIRCUMSTANCES BEHIND THE DELAYED TRANSPORTATION WERE BEYOND HIS CONTROL AND CAUSED HIM TO MISS HIS USUAL MEAL TIME WHICH EXACERBATED HIS CONDITION. GIVEN ALL THIS, ROGGANBUCK WAS TECHNICALLY IN VIOLATION OF THE POLICY, BUT THE UNIQUE NATURE OF THIS INCIDENT DOES NOT CONSTITUTE A**

**SUBSTANTIAL SHORTCOMING WHICH RENDERS HIS CONTINUANCE IN HIS POSITION IN SOME WAY DETRIMENTAL TO THE DISCIPLINE AND EFFICIENCY OF THE SERVICE AND WHICH THE LAW AND SOUND PUBLIC OPINION RECOGNIZE AS GOOD CAUSE FOR HIM TO NO LONGER HOLD HIS POSITION. THEREFORE, SAID CHARGES WARRANT A 30-DAY SUSPENSION IN LIEU OF DISCHARGE.**

**KOLKER            YES                            EWELL            YES**  
**PETERSON        YES                            DALIANIS        YES**  
**BUKRABA         YES**

X. APPEALS TERMINATED WITHOUT DECISION ON THE MERITS

• **DISMISSED**

**DA-46-08**

Employee	Danny K. Johnson	Appeal Date	5/19/08
Agency	CMS	Decision Date	9/05/08
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Employee not certified	Recommended Decision	Dismissed; default (no show at hearing).

**DA-3-09**

Employee	Kimberly C. Johnson	Appeal Date	7/23/08
Agency	DHS	Decision Date	8/25/08
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Unauthorized absences	Recommended Decision	Dismissed; withdrawn (will pursue via grievance procedure).

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 5-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGES' RECOMMENDED DECISIONS TO DISMISS THE DANNY K. JOHNSON AND THE KIMBERLY C. JOHNSON APPEALS.**

**KOLKER            YES                            EWELL            YES**  
**PETERSON        YES                            DALIANIS        YES**  
**BUKRABA         YES**

September 18, 2008

XI. REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO OPEN MEETINGS ACT

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 THAT AFTER REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO THE OPEN MEETINGS ACT, THE NEED FOR CONFIDENTIALITY STILL EXISTS AS TO ALL THOSE MINUTES.**

XI. STAFF REPORT

Executive Director Daniel Stralka reported that:

- The 2008 SECA campaign kicked off September 14, 2008 and will run through November 14, 2008.
- Group insurance benefit choice option period 2 will be October 27, 2008 through November 14, 2008. Effective date of changes elected during this period will begin January 1, 2009.
- An issue has arisen regarding Agendas and Minutes containing information about employees' discharge appeals with the Commission. Since the Agendas and Minutes are available on the internet, a search engine like Google will lead searchers to the information about appeals when the employees' names are typed. This information is available even if they entered into a settlement agreement with the State that allowed them to resign. Once an appeal is filed, it becomes a public record by State law, but Staff considered minimizing the information contained in the summary boxes to eliminate any reference to the specific actions that led to the charges and just to indicate what rule or rules were alleged to have been violated. Another alternative is to eliminate the box altogether. After discussion, it was the consensus of the Commissioners to continue use of the summary boxes with consideration given to the description of the charges therein.

There was discussion among the Commissioners about changing the start time of the November 20, 2008 Commission meeting to 1:00 p.m. in order to benefit the State and the work of the Commission by minimizing travel expenditures and allowing agency representatives to more easily attend Commission meetings.

**IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY CHAIRMAN KOLKER, AND THE MOTION ADOPTED 5-0 TO APPROVE THE START TIME FOR THE NOVEMBER 20, 2008 MEETING IN SPRINGFIELD TO BE CHANGED FROM 10:30 A.M. TO 1:00 P.M.**

XII. MEETING SCHEDULE FOR CALENDAR YEAR 2009

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 5-0 TO APPROVE THE FOLLOWING MEETING SCHEDULE FOR CALENDAR YEAR 2009 WITH CHICAGO MEETINGS TO BEGIN AT 11:00 A.M. AND SPRINGFIELD MEETINGS TO BEGIN AT 1:00 P.M.**

January 16, 2009	Chicago		July 17, 2009	Chicago
February 20, 2009	Chicago		August 21, 2009	Chicago
March 20, 2009	Chicago		September 18, 2009	Chicago
April 17, 2009	Chicago		October 16, 2009	Chicago
May 15, 2009	Springfield		November 20, 2009	Springfield
June 19, 2009	Chicago		December 18, 2009	Chicago

XIII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on October 16, 2008 at 9:00 a.m. in the Commission's Chicago office.

XIV. MOTION TO ADJOURN

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 5-0 TO ADJOURN THE MEETING AT 10:10 A.M.**